

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 7 OF 2006
IN
CRIMINAL WRIT PETITION NO. 1898 OF 2004

Ramesh Pahalrai Makhija. ...Applicant
V/s.
The Senior Inspector of Police,
DCB, CID, Unit IX, Bandra Mumbai & Ors. ...Respondents

Mr.Subodh Desai for Applicant.
Mr.Rajesh More, APP for the State.

CORAM : V.M. KANADE, J.

DATED : FEBRUARY 24, 2006

P.C. :-

. Heard learned Counsel for the applicant and
learned APP for the State.

. This application is being taken out by the
petitioner in Criminal Writ Petition No.1898/2004. The
writ petition was admitted and interim relief in terms
of prayer clause (c) was granted by order dated 31st
March, 2005. By virtue of the said interim relief, the
respondent was restrained from carrying out further
investigation qua the petitioner in respect of a
complaint which was registered with Worli Police Station
vide C.R.No.37/2004. It is the contention of the

applicant that inspite of the specific interim order passed by this Court, the applicant's name was included in the chargesheet which was filed in the said case. It is submitted that therefore, there is breach of order passed by this Court and therefore, necessary action may be taken against the persons who have violated the orders passed by this Court. Notice was accordingly issued and the learned APP was directed to file an affidavit to show cause as to why action should not be taken against the Investigating Officer under the provisions of Contempt of Court Act.

2. An affidavit in reply has been filed and the Investigating Officer has tendered his unconditional apology to the Court. He has stated that the applicant was never called to the police station after the interim order was passed by this Court and inadvertently, his name was included in the chargesheet. Thereafter, time was taken by the learned Chief P.P. for making an appropriate application in the Court of Metropolitan Magistrate. Accordingly, an application was made before the Metropolitan Magistrate and the interim order which

was passed by this Court was brought to the notice of the learned Magistrate and a prayer was made for deleting the name of the applicant or staying the further proceedings qua the applicant. The learned Magistrate, accordingly, on 8th February, 2006 has stayed the proceedings against the applicant.

3. Learned APP has tendered the certified true copy of the said order passed by the Magistrate which is taken on record. The apology is accepted. The applicant also has filed an affidavit in reply in which an exception is taken to one of the statements made by the Investigating Officer in the affidavit in reply which is filed by him.

4. Taking an overall view of the matter and considering the reply filed by the Investigating Officer and the steps which have been taken by the State for correcting the error which had occurred in the investigation of the case, in my view, no further action needs to be taken against the State or any of its officer. The Criminal Application, therefore, does not

survive and is disposed of accordingly.

(V.M. Kanade, J.)